UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Case No: 05-4779

JOSEPH NARA

V.

FREDERICK FRANK,
Appellant

On Appeal from the United States District Court for the Western District of Pennsylvania
(D.C. No. 99-cv-00005)
District Judge: the Honorable Terrence F. McVerry

Argued on October 26, 2006
BEFORE: SMITH, WEIS, and NYGAARD, Circuit Judges

ORDER AMENDING OPINION
(Filed June 12, 2007)

NYGAARD, *Circuit Judge*

It is now ordered that the published Opinion in the above case, filed on May 2007, is hereby amended as follows:

At page 13, line 26, insert the following:

"First, the District Court found that the Magistrate Judge served the R&R upon Mr. Nara and the Commonwealth's attorney's by first class mail. The Commonwealth has presented no evidence to the contrary.

In the next sentence, delete "First" and insert "Second."

At page 14, line 4, delete "Second" and insert "Finally"

By the Court,

/s/ Richard L. Nygaard
Circuit Judge